

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

SOO LINE RAILROAD CO.)	
d/b/a CANADIAN PACIFIC RAILWAY)	
)	
Plaintiff,)	
)	Civil Action No. 08-CV-1813
v.)	Judge Der-Yeghiayan
)	Magistrate Judge Cox
)	
BROTHERHOOD OF MAINTENANCE OF WAY)	
EMPLOYES DIVISION OF THE INTERNATIONAL)	
BROTHERHOOD OF TEAMSTERS)	
)	
Defendant.)	
)	

**DEFENDANT’S MOTION TO DISMISS COMPLAINT
FOR LACK OF SUBJECT MATTER JURISDICTION**

Pursuant to Fed. R. Civ. P. 12(b)(1), defendant Brotherhood of Maintenance of Way Employees Division IBT (“BMWED”) hereby moves the Court to dismiss the complaint of the plaintiff, Soo Line RR. Co. (“Soo”). BMWED submits that the Court lacks subject matter jurisdiction over the complaint because it does not concern an actual case or controversy, and because it is not ripe for adjudication, as required by Article III of the Constitution. Soo’s complaint does not concern actual unlawful acts or actual threats of unlawful acts, but rather, conjectural, hypothetical and contingent allegations of a violation of the Railway Labor Act (“RLA”), 45 U.S.C. § 151 et seq., asserted “on information and belief”. Since the complaint does not concern a live, concrete and ripe controversy over which the Court has jurisdiction, it should therefore be dismissed.

For the reasons stated herein, and in the memorandum in support of this motion, BMWED respectfully requests that the Court dismiss this case for lack of jurisdiction.

Respectfully submitted,

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June 17, 2008

Attorneys for Plaintiff Brotherhood of Maintenance of Way Employees Division/IBT

CERTIFICATE OF SERVICE

I hereby certify that on June 17, 2008, a copy of the foregoing Answer was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this document through the Court's system.

s/ William L. Phillips